

***Delaware Health Resources Board  
Meeting Minutes  
Thursday, January 28, 2016 2:30 PM  
DelDOT Administration Building  
Farmington/Felton Conference Rooms  
800 Bay Road  
Dover, Delaware 19901***

***Board Members Present:***

Bill Love, Chair; Lynn Fahey; Leighann Hinkle; Dennis Klima; Scott Perkins; Jill Rogers; Mark Thompson; Yrene Waldron; John Walsh; and Gina Ward.

***Board Members Absent:*** David Hollen; and Vincent Lobo, MD.

***Staff Present:*** Helen Arthur; Laura Howard; Marlyn Marvel; Joanna Suder; and Latoya Wright.

***Call to Order and Welcome:***

Chairman Bill Love welcomed the Board members and called the meeting to order at 2:30 p.m. He introduced new Board members Dennis Klima and Scott Perkins.

***Action***

**December 17, 2015 Meeting Minutes**

Gina Ward noted for the record that, at the December 17, 2015 Health Resources Board meeting, the Post Acute Medical, LLC Certificate of Public Review (CPR) Report was presented to the Board, discussed thoroughly, and approved. She would like to footnote that, in the Review Committee evaluation of many of the criteria, the level of care between a Skilled Nursing Facility (SNF) and Inpatient Rehabilitation Facility (IRF) was discussed. Documentation from Post Acute Medical in the original Post Acute Medical CPR Application (pages 29-31) and the Supplemental Comments submitted to the Review Committee (dated November, 24, 2015, pages 3-15), provided data and outlined valuable comparisons between the two.

Scott Perkins made a motion to approve the December 17, 2015 meeting minutes. John Walsh seconded the motion. There was a voice vote, from which Lynn Fahey, Mark Thompson and Dennis Klima abstained. Motion carried.

Scott Perkins made a motion to approve the December 17, 2015 executive session meeting minutes. Jill Rogers seconded the motion. There was a voice vote, from which Lynn Fahey, Mark Thompson and Dennis Klima abstained. Motion carried.

**Extension of Review Period for Bayhealth CPR Application**

Dennis Klima recused himself and left the room.

Mr. Love stated that the Bayhealth Review Committee is requesting an extension of the review period for the Bayhealth CPR application which requires review and approval of the Board. Bayhealth presented their application and the proposal is to replace the current hospital in Milford with a new hospital. Given the volume of CPR applications that have been received and the restructuring of the Board it is necessary to extend the review period. The statute requires that the review period for applications be set at 90 days from the date of public notice which, in this case, will be February. If the Board approves, a letter will be sent to Bayhealth requesting

their agreement in writing to extend the period for a vote on the application at the March 24, 2016 Health Resources Board meeting. The Review Committee members are Scott Perkins, Mark Thompson and Bill Love.

Yrene Waldron made a motion that the Board request an extension of the review period until March 24, 2016. John Walsh seconded the motion. There was a voice vote, 9 in favor, 0 opposed and one recusal.

Dennis Klima rejoined the meeting.

### *Updates*

#### Health Resources Management Plan Revision

Allison Shevock, PhD gave a presentation on Revising Delaware's Health Resources Management Plan (HRMP). A copy of the presentation is posted on the Health Resources Board website at <http://dhss.delaware.gov/dhss/dhcc/hrb/meetingpresentation.html>.

A draft revision of the HRMP was distributed to the Board members for review. The Board members will provide feedback on the revisions through February 2016 and a public hearing will be scheduled after March 2016. There will be a series of tiered approvals from April through May 2016 by the Health Resources Board, the Health Care Commission, and the Secretary of the Department of Health and Social Services. The statute authorizing the Board may require revisions as well depending on the extent of the revisions in the plan.

### *Discussion*

Mark Thompson asked which category would addiction and substance abuse treatment would fall under. Dr. Shevock stated that other states include addiction and substance abuse treatment under behavioral health with a separate break out section for a substance abuse facility.

Ms. Ward questioned adding a potential Women's Health category to Obstetrics. She asked if there is a stand-alone facility, whether it be Women's Health or Obstetrics. Dr. Shevock stated that the current HRMP only looks at obstetric hospital beds. There is no regulation for a facility that would be more inclusive of across the board health services.

Helen Arthur stated that a question was previously posed about obstetrics and it was noted that there have not been any applications for obstetrics. There is an application from Christiana Care for a Women's Health Center. The staff has been trying to research what is encompassed within the Women's Health Center versus obstetrics and what other states are doing. It is currently in a separate category because they are not sure of the difference.

Jill Rogers stated that, in the last HRMP, obstetrical beds were a type of acute care bed. They were under the umbrella of acute care, as opposed to being broken out separately. Dr. Shevock stated that she thinks it was broken out separately. She will confirm that.

Yrene Waldron stated, given the shift in acuity levels, the Board may want to consider changing the nursing homes category to licensed long term care facilities.

Mr. Love asked what the value is of having the charity care provision in the Board's reviews, given the changing health care environment. He stated that the Board should consider whether it is still necessary.

Mark Thompson stated that the Affordable Care Act and Medicaid expansion have provided access to insurance for many more people; however, there is still a subset of the population who are not eligible to purchase on the Marketplace Exchange and/or who are eligible for federal waivers. It is something that needs to be thought about. The Board needs to consider a safety net with provisions and programs for that population.

Ms. Waldron stated that, even though more people are covered, many have much higher deductibles and are not able to pay them. Perhaps the approach that needs to be taken is not a total charity policy, but a safety net policy that allows people to pay a reduced rate for the copays or deductibles because they are usually very high.

Lynn Fahey stated that the current HRMP talks about psychiatric beds, but it does not talk about substance abuse beds. If psychiatric and substance abuse are going to be considered separate, that should be reflected in the revised plan.

Dr. Shevock clarified that a subcategory is needed within behavioral health for substance abuse. Joanna Suder stated that will require a legislative change. Substance abuse beds are outside of the Board's statutory activity subject to review, which is why they are not currently in the HRMP.

Ms. Waldron stated that the Board may want to consider increasing the fees. It needs to consider adding a percentage that can be used to allow the staff to be able to hire a consultant to vet, research and verify information presented by applicants.

Mr. Love asked if the fees in the draft plan are substantially higher than the current fees. Dr. Shevock stated that they have not been updated. Mr. Love stated that the Board needs to discuss the level of the fees and whether they can dedicate some of the revenue from the fees for various reasons.

Ms. Rogers stated that verifying information presented by applicants is currently done at the committee level. The Board would need to clarify whether additional fees would actually come back to the Board or if they would go to the general fund.

Ms. Waldron stated that the Board needs to consider that a lot of things promised by applicants over the years have never come to fruition. Perhaps the new HRMP should give the Board the authority to take action against an applicant if what they promise they are going to do does not get done. Perhaps there could be a fine that increases depending on the severity of the lack of fulfillment of the commitment that was made when the CPR was approved.

Ms. Suder stated that the current enforcement provision is that the Board has authority to revoke a CPR if there is failure to comply.

Mr. Walsh stated that there should be a continuum or a gradation of penalties. If the main penalty is revocation of the CPR, there should be lesser penalties for lesser infractions and on up.

Ms. Waldron stated that the Division of Long Term Care Residents Protection conducts surveys of long term care facilities to see if the Medicare and Medicaid criteria, and federal and state regulations are being met. Perhaps the Board could let them know when a facility has made a commitment during the CPR application process. They could add the commitment to their

survey and let the Board know if it happens or not. For acute care facilities it would be Health Facilities Licensing. Mr. Love and Ms. Arthur stated that the Board can consider that as another option.

Ms. Ward stated that the Board needs to include verbiage to the HRMP limiting the length of the CPR application. Ms. Rogers agreed that the Board could add page limits to the application. Ms. Waldron stated that the Board should consider the length of time allowed to complete the review so it does not have to request an extension.

Mr. Love stated that a three hour retreat will be scheduled in March. It will be a public meeting devoted entirely to the Health Resources Management Plan. Ms. Arthur stated there will be a public hearing after March.

Mark Thompson requested that the draft HRMP be a redacted version to allow the Board to see what has been edited and what has been added.

Ms. Waldron stated that the current plan requires nursing utilization statistical reports and the last report was published in 2012. Ms. Arthur stated that the nursing home utilization reports are current. They are posted on the Health Resources Board website through 2013. The 2014 report will be published shortly and the Board is caught up on the 2015 reporting. Ms. Arthur will send the link to the Health Resources Board website to the Board.

Ms. Ward stated that on page 36 of the draft HRMP, the Board discussed behavioral health beds and the proposed service area. She asked how will the proposed service area be defined. On page 41 it mentions counties, which can be complex because a facility can be in a located in a different county but near the county line. That needs to be further defined.

Dr. Shevock stated that Delaware utilizes counties as their guidelines. Larger states are using counties plus contiguous counties. The Board could consider using counties and adding language to also consider just over county lines the availability of close resources but technically different counties.

Ms. Rogers stated that there are also criteria that HRSA uses for Health Professional Shortage Areas and network adequacy standards that Medicaid uses that have to do with a radius rather than county lines.

Dr. Shevock stated that Delaware is mandating that all of the applicants use Delaware Population Consortium data for their projections. That is completed at the county level and the radius would not be a possibility with that. They would have to use another population source.

Mr. Love stated there was a subcommittee that reviewed some of the nursing home criteria and one of the things they recommended was how to administratively treat the Delaware veterans' homes. He suggested discussing the proposed language at the retreat and whether or not it should be included in the revised plan.

## ***Upcoming Items Before the Board***

### ***Notice of Appeal***

Mr. Love stated that an appeal has been filed in Superior Court by UHS of Rockford, LLC and UHS of Dover, LLC on the decision of the Board to approve the CPR application from SUN Behavioral Health of Delaware, as well as the decision by the Board not to reconsider that approval. A copy of the Notice of Appeal was distributed to the Board members for review.

### ***Other Business***

There was an opportunity for other business and there was none.

### ***Public Comment***

There was an opportunity for public comment and there was none.

### ***Next Meeting***

The next Health Resources Board meeting will be held in the Farmington/Felton Conference Rooms on the first floor of the Department of Transportation Administration Building, 800 Bay Road, Dover on Thursday, February 25, 2016 at 2:30 p.m.

### ***Adjourn***

Yrene Waldron made a motion that the meeting be adjourned. Mark Thompson seconded the motion. There was a voice vote. Motion carried.

The meeting adjourned at 3:50 p.m.

### ***Guests Attending***

Michelle Clark	Bayhealth Medical Center
Charles Constant	Dover Behavioral Health Services
Sam Noel	Carpenters Local 626
Suzanne Raab-Long	DE Healthcare Association